



ENVIRONMENTAL, REAL ESTATE, BUSINESS AND INSURANCE LAW



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March 6, 2023

Via CM/ECF

Leda Dunn Wettre, U.S.M.J.
United States District Court
District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07102

**Re: Occidental Chemical Corp. v. 21st Century Fox Am., Inc., et al.
Civil Action No. 2:18-cv-11273-MCA-LDW**

Dear Magistrate Judge Wettre:

We write on behalf of Occidental Chemical Corporation (OxyChem) regarding the March 1, 2023 Order (Dkt. 2287) granting the Defendants' motion to stay (Dkt. 2246-2).

OxyChem agreed to the stay and the proposed form of order submitted with it. Dkt. 2246-7. In agreeing to the stay, OxyChem was not asked to—and it did not—consent to the entry of any findings of disputed facts by the Magistrate Judge. Defendants' motion did not request proposed findings of fact by the United States Magistrate and the proposed order included none.

Consent is required from all parties before a Magistrate can resolve factual disputes. See *Beazer East, Inc. v. Mead Corp.*, 412 F.3d 429, 438, 444 & n. 12 (3d Cir. 2005) (“Except for prisoner’s cases, the [Federal Magistrate’s] act does not permit the magistrate to perform fact-finding on the merits of a case” (quoting *Banks v. United States*, 614 F.2d 95, 97 (6th Cir. 1980))).

The Court’s stay order (Dkt. 2287) includes recitals not contained in the proposed order. OxyChem does not understand the recitals to constitute findings of fact or law binding on any party, because no findings were requested (or agreed to) by any party in the motion and proposed order, including OxyChem.

To avoid any implication to the contrary, however, we write to confirm what is already of record; namely, that in agreeing to entry of a stay, OxyChem did not consent to any findings of fact by the United States Magistrate or to the determination of any potential effect the proposed consent decree filed in *United States v. Alden Leeds, Inc., et al.*, Civil Action No. 22-7326 on OxyChem’s claims in this matter.

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We appreciate the Court's courtesy in allowing us to confirm the record on this point.

Respectfully submitted,



Kathy D. Patrick

/s/ John J. McDermott

John J. McDermott

cc: Liaison Counsel (via ECF)